

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Daniel TePoel,  Petitioner,  v.  Charles E. Samuels, Jr.,  Respondent.	Case No. 15-cv-2332 (JRT/HB)  <b>REPORT AND RECOMMENDATION</b>
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HILDY BOWBEER, United States Magistrate Judge

Petitioner Daniel TePoel commenced this action by filing petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In an order dated May 12, 2015, this Court noted that the claims raised in TePoel's habeas petition must be brought in a traditional civil complaint, not a habeas petition. (Order at 2 [Doc. No. 6] (citing *Spencer v. Haynes*, 774 F.3d 467, 470 (8th Cir. 2014); *Kruger v. Erickson*, 77 F.3d 1071, 1073 (8th Cir. 1996) (per curiam) ("If the prisoner is not challenging the validity of his conviction or the length of his detention, such as loss of good time, then a writ of habeas corpus is not the proper remedy."))). This Court therefore ordered that, if TePoel wished to prosecute the claims brought in this litigation, he would be required to file a civil complaint and either pay the required filing fee or apply to proceed *in forma pauperis* by no later than June 5, 2015, failing which it would be recommended that this action be dismissed without prejudice.

That deadline has now passed, and TePoel has not filed a civil complaint, paid the required filing fee, or applied for *in forma pauperis* status. In fact, TePoel has not communicated with the Court about this case at all since commencing this action. It therefore appears that TePoel does not wish to pursue at this time the civil claims raised in his habeas petition. Accordingly, this Court now recommends, in accordance with the May 12, 2015, Order, that this action be dismissed without prejudice.

Accordingly, based on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE**.

Dated: June 10, 2015

s/ Hildy Bowbeer

HILDY BOWBEER

United States Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore, not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).

**Under Advisement Date:** This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of:

(1) 14 days after the objections are filed; or (2) from the date a timely response is filed.